

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

CIVIL NO. 3:04-CV-561-W

SCOTTY HERMAN,

Plaintiff,

vs.

**PIZZA HUT, INC., PIZZA HUT OF
AMERICA, INC., TRICON GLOBAL
RESTAURANTS, INC., and
AMERICA'S PIZZA COMPANY,
LLC,**

Defendants.

ORDER

THIS MATTER comes now before the Court *sua sponte* for pretrial scheduling purposes.

A final pretrial conference shall be held at **9:00 a.m. on 22 December 2006**, in Courtroom #1 of the Charles R. Jonas Federal Building in Charlotte, North Carolina. Trial shall be by jury during the Court's civil term commencing **22 January 2007**.

The Court will require the following pretrial submissions to be **jointly** drafted and submitted to chambers at least one week prior to the final pretrial conference (i.e., on or before **15 December 2006**):

1. A proposed pretrial order, containing:
 - A joint statement of the case, the purpose of which is to acquaint the jury with the nature of the case (unless the case is extremely complex, this statement should not ordinarily exceed one page);
 - Stipulations as to all issues of law or fact to which the parties can agree for

purposes of streamlining trial;

- A brief synopsis of the legal or factual contentions about which the parties have been unable to stipulate;
- A list of exhibits that each party may offer at trial (except those offered solely for impeachment or cross-examination), numbered sequentially; a brief description of the exhibit and the purpose for which it will be offered; any stipulations as to authenticity or admissibility; and the basis for any objections;
- Designations by volume, line, and page of all portions of pleadings and discovery materials, including depositions, interrogatories, and requests for admission, that each party may offer at trial (except those offered solely for impeachment or cross-examination); cross-designations; a brief description of the substance of the designation and the purpose for which it will be offered; and the basis for any objections;
- A list of the names and addresses of all witnesses each party may offer at trial, together with a brief statement of what counsel proposes to establish by their testimony; and
- A statement of the qualifications of any expert witness a party may offer at trial, unless the parties have stipulated to the qualifications of the expert witness as provided above.

2. Proposed voir dire. Counsel shall jointly prepare and submit a set of general voir dire questions to which all parties agree. Within the same document, each party may

propose any additional voir dire which the other party may oppose. Pursuant to Fed. R. Civ. P. 47(a), the Court will ask prospective jurors only such of the proposed voir dire as it deems proper.

3. Proposed jury instructions. Jury instructions at this stage should be narrowly tailored to the anticipated issues arising at trial, subject to supplementation at the close of evidence, as necessary, as contemplated by Fed. R. Civ. P. 51. Counsel shall identify and index each proposed instruction by number and heading, and support each proposed instruction with adequate legal authority. Counsel shall confer and submit a single compilation of proposed jury instructions. Where there is disagreement, this jointly prepared submission shall disclose the basis for a party's objection and provide a proposed alternate instruction.
4. A proposed jury verdict form, jointly agreed upon by counsel. Where there is disagreement as to form, this jointly prepared submission shall disclose the basis for a party's objection and provide a proposed alternate verdict form.
5. Copies (no originals) of all proffered exhibits (including designated portions of depositions and interrogatories), properly bound, indexed, and tabbed. In addition, if counsel proposes to publish exhibits electronically through the multimedia technology available in the courtroom, counsel shall submit to chambers a CD-ROM containing the pertinent files (in JPEG or PDF format for images and MPEG format for audio/video), named according to the corresponding exhibit number assigned to the exhibit in the proposed pretrial order.

All working drafts of documents (e.g., proposed pretrial order, voir dire, jury instructions) shall be


submitted to the Court electronically, in either WordPerfect (WPD) or Rich Text (RTF) format, through the CyberClerk feature of CM/ECF. Submissions required to be made in a tangible medium (e.g., hard copies of papers and exhibits) must be sent so as ensure their receipt in chambers by the deadlines set forth herein.

To the extent that contested issues of law, evidentiary objections, and motions *in limine* can be anticipated in advance of trial, motions and memoranda as applicable shall be filed two weeks in advance of the first day of the trial term (i.e., on or before **8 January 2007**). Written responses shall be due four days in advance of the first day of the trial term (i.e., on or before **18 January 2007**).

Except as provided herein, the Court's case management order entered 26 January 2005 (as amended 27 September 2005) shall remain in full force and effect.

IT IS SO ORDERED.

Signed: November 17, 2006


Frank D. Whitney
United States District Judge

